

REMARKS

Upon entry of the present Response, claims 1-17 remain pending and will not have been amended.

In the outstanding Office Action, claims 1-17 were rejected under 35 U.S.C. §103(a) over TSUCHIDA et al. (WO 02/17148). WO 02/17148 is the international publication of PCT/JP01/07055. The Examiner cited U.S. Patent No. 7,003,371 as a true translation of WO/0217148, as U.S. Patent No. 7,003,371 is the U.S. National Stage of PCT/JP01/07055.

Applicant traverses the outstanding rejection. In this regard, WO 02/17148 does not qualify as prior art with respect to the present application under 35 U.S.C. §102(e) because WO 02/17148 was not published in English. With respect to U.S. Patent No. 7,003,371 (the '371 patent), it also does not qualify as prior art with respect to the present application. The '371 patent is based on International Application No. PCT/JP01/07055, filed on August 16, 2001, published as WO 02/17148 on February 28, 2002, and accorded a §371 (C)(1), (2), (4) date of February 14, 2003. However, the present application is based on Japanese Patent Application No. 2001-231837, filed on July 31, 2001.

Notwithstanding the above, even if the publication of TSUCHIDA et al. does qualify as “prior art” with respect to the present application under 35 U.S.C. §102(e), TSUCHIDA et al. is disqualified as “prior art” under 35 U.S.C. §102(e), in an obviousness rejection under 35 U.S.C. §103(c), since the subject matter of the present application and the subject matter of TSUCHIDA et al. were, at the time the claimed invention was made (i.e., by July 31, 2001), subject to a common obligation of assignment (both TSUCHIDA et al. and the present application have Amada Co., Ltd. as the assignee).

With respect to 35 U.S.C. § 102(a), Applicants are submitting herewith a verified English language translation of JP 2001-231837, to perfect their claim for priority to JP 2001-231837.

TSUCHIDA et al. is applied in each of the outstanding rejections. JP 2001-231837 supports each of the features of the pending claims which the Office Action asserts are disclosed or suggested in TSUCHIDA et al. Having perfected the claim for foreign priority to JP 2001-231837, Applicants submit that TSUCHIDA et al. is not properly considered "prior art" to the claimed invention under any provision of 35 U.S.C. §§ 102 or 103.

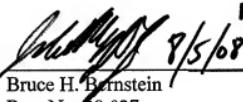
Accordingly, reconsideration and withdrawal of each of the outstanding rejections is respectfully requested, at least in view of the concurrent submission of the verified English language translation of JP 2001-231837.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection together with an indication of the allowability of all the pending claims, in due course.

Should the Examiner have any questions or comments regarding this response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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